

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-03-OR-133
)	
J.C. Maxwell Broadcasting Group, Inc.)	NAL/Acct. No.200432620001
Licensee of Station WMPR(FM))	
Jackson, Mississippi)	FRN 0009 3958 31
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 21, 2003

By the Enforcement Bureau, New Orleans Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find J.C. Maxwell Broadcasting Group, Inc. ("Maxwell Broadcasting"), licensee of FM radio station WMPR in Jackson, Mississippi, apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000) for repeated violation of Section 11.35(a) of the Commission's Rules ("Rules").¹ Specifically, we find Maxwell Broadcasting apparently liable for failing to install and maintain operational Emergency Alert System ("EAS") equipment during the times the station was in operation.

II. BACKGROUND

2. On May 21, 2003, an agent from the FCC Enforcement Bureau's New Orleans Office ("New Orleans Office") inspected the studio of station WMPR in Jackson, Mississippi. No EAS equipment was installed in the studio.

3. On June 20, 2003, the New Orleans Office issued a Letter of Inquiry to Maxwell Broadcasting concerning the installation and operation of EAS equipment at station WMPR.

4. On July 14, 2003, the New Orleans Office received a response to the above Letter of Inquiry signed by the WMPR General Manager. The response stated that when the station terminated use of the old Emergency Broadcast System equipment, the purchase of EAS equipment was placed on a list with other equipment also needed for the studio. The reply went on to say that the station spent 12 to 15 months raising the necessary funds before attempting to purchase the equipment and that the equipment on the list was ordered on March 4, 2003. However, the EAS equipment had not arrived at the time of the inspection by the FCC agent on May 21, 2003. The station placed a second order for EAS equipment that was installed and operational on June 29, 2003.

¹ 47 C.F.R. § 11.35(a).

III. DISCUSSION

5. Section 11.35(a) of the Rules requires broadcast stations and cable systems and wireless cable systems to be responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS be installed so that the monitoring and transmitting functions are available during the times that the stations and systems are in operation. Maxwell Broadcasting operated station WMPR from at least March, 2002, until June 29, 2003 without having installed and operational EAS equipment.

6. Based on the evidence before us, we find Maxwell Broadcasting repeatedly² violated Section 11.35(a) of the Rules by failing to install and maintain operational Emergency Alert System ("EAS") equipment during the times the station was in operation.

7. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for EAS equipment not installed or operational is \$8,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants an \$8,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ J.C. Maxwell Broadcasting Group, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for repeated violation of Section 11.35(a) of the Rules by failing to install and maintain operational Emergency Alert System equipment during the times the station was in operation.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, J.C. Maxwell Broadcasting Group, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

² The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street S.W., Washington, D.C. 20554, Attn: Enforcement Bureau-Spectrum Enforcement Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Enforcement Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to J.C. Maxwell Broadcasting Group, Inc., 1018 Pecan Park Circle, Jackson, Mississippi, 39209.

FEDERAL COMMUNICATIONS COMMISSION

⁷ See 47 C.F.R. § 1.1914.

James C. Hawkins
District Director, New Orleans Office
Enforcement Bureau

Attachment